

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Crim. Action No.: 1:19-CR-63
(Judge Kleeh)

JOSE CATARINO FEREGRINO-RESENDEZ,

Defendant.

ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION
CONCERNING PLEA OF GUILTY IN FELONY CASE [DKT. NO. 18],
ACCEPTING GUILTY PLEA, AND SCHEDULING SENTENCING HEARING

On November 4, 2019, the Defendant, Jose Catarino Feregrino-Resendez ("Feregrino-Resendez"), appeared before United States Magistrate Judge Michael J. Aloï and moved for permission to enter a plea of **GUILTY** to Count One of the Indictment. Feregrino-Resendez stated that he understood that the magistrate judge is not a United States District Judge, and Feregrino-Resendez consented to pleading before the magistrate judge. This Court referred Feregrino-Resendez's plea of guilty to the magistrate judge for the purpose of administering the allocution, pursuant to Federal Rule of Criminal Procedure 11, making a finding as to whether the plea was knowingly and voluntarily entered, and recommending to this Court whether the plea should be accepted.

Based upon Feregrino-Resendez's statements during the plea hearing, and the Government's proffer establishing that an

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independent factual basis for the plea existed, the magistrate judge found that Feregrino-Resendez was competent to enter a plea, that the plea was freely and voluntarily given, that Feregrino-Resendez was aware of the nature of the charges against him and the consequences of his plea, and that a factual basis existed for the tendered plea. The magistrate judge issued a *Report and Recommendation Concerning Plea of Guilty in Felony Case* ("R&R") [Dkt. No. 18] finding a factual basis for the plea and recommending that this Court accept Feregrino-Resendez's plea of guilty to Count One the Indictment.

The magistrate judge also directed the parties to file any written objections to the R&R within fourteen (14) days after service of the R&R. He further advised that failure to file objections would result in a waiver of the right to appeal from a judgment of this Court based on the R&R. On November 5, 2019, counsel for Defendant informally requested an expedited sentencing hearing and acknowledged that the parties waived preparation of a full presentence investigation report ("PSR") with the plea agreement. Counsel for the Government does not object to an expedited hearing. Accordingly, the Court deems Defendant's

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request for an expedited sentencing hearing as a waiver of the fourteen (14) day period for filing written objections to the R&R.

For the reasons stated herein, the Court **ADOPTS** the magistrate judge's R&R [Dkt. No. 18], provisionally **ACCEPTS** Feregrino-Resendez's guilty plea, and **ADJUDGES** him **GUILTY** of the crimes charged in Count One of the Indictment.

The magistrate judge remanded Feregrino-Resendez to the custody of the United States Marshals Service.

Pursuant to U.S.S.G. § 6A1 et seq., the Court **ORDERS** the following:

1. The Probation Officer shall prepare a modified presentence investigation report for the Court;

2. The Court will conduct the **Sentencing Hearing** for Feregrino-Resendez on **Tuesday, December 3, 2019**, at **1:30 P.M.**, at the **Clarksburg, West Virginia** point of holding court.

It is so **ORDERED**.

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The Clerk is directed to transmit copies of this Order to counsel of record, all appropriate agencies, and the Court appointed interpreter, Johnnie Benningfield.

DATED: November 8, 2019

/s/ Thomas S. Kleeh
THOMAS S. KLEEH
UNITED STATES DISTRICT JUDGE